

In re ) Fair Hearing No. 16,649  
 )  
Appeal of )

The petitioner appeals a decision by the Department of PATH terminating her Medicaid benefits and denying her application for VHAP based on excess income.

## FINDINGS OF FACT

1. The petitioner lives with her minor son who receives SSI disability benefits. Her son is separately eligible for Medicaid. The petitioner has income, before taxes, of \$1,564.29 per month from her employment.

2. In August 2000 the Department notified the petitioner that she would be ineligible for Medicaid due to excess income until she met a spend-down amount. The petitioner then applied for VHAP, which was also denied due to excess income.

3. Following a Fair Hearing on October 4, 2000 the Department recalculated the petitioner's eligibility for VHAP based on child care expenses the petitioner had not previously reported.

4. For purposes of her Medicaid eligibility, even with all allowable deductions, the petitioner's income was far in excess of the maximum for a one-person household of \$508.90

per month, and the petitioner was determined to be over income.

5. For purposes of VHAP eligibility, the Department allowed deductions from the petitioner's earned income of \$175 for child care and a \$90 standard deduction, leaving her a net countable income of \$1,299 a month, which is \$11 over the program maximum of \$1,288.

6. At a hearing held on November 8, 2000 the petitioner did not contest these figures, but indicated that she expected her income to decrease that month due to a seasonal drop-off in her employer's business. She was advised to immediately reapply for VHAP if this was the case.

ORDER

The decision of the Department is affirmed.

REASONS

The Medicaid and VHAP regulations count gross earned income in determining eligibility subject only to specific deductions found in the regulations. Medicaid Manual § M240 et seq.; W.A.M. § 4001.81. The petitioner does not dispute that her countable income for purposes of Medicaid, even with all allowable deductions, is well in excess of the applicable income test for the petitioner's household, which is \$508.90 per month. See Procedures Manual § P-2420(B)(1).

Under the VHAP program, gross earned income from wages is

subjected to a \$90 disregard before eligibility is determined.

W.A.M. § 4001.81(e). As noted above, the petitioner is also eligible for a child care deduction of \$175. Her remaining income (\$1,299) was compared with the VHAP maximum, which is 150% of the poverty line. W.A.M. § 4001.84. The current maximum for a single person under VHAP is \$1,288. P-2420(B)(6). Because the petitioner's net income was slightly in excess of that maximum she could not be found eligible for VHAP, unless her income decreases. As the Department's determinations in both the Medicaid and VHAP program were consistent with its regulations, the Board must uphold them. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

# # #